

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Date:
October 5, 2010

LEGEND

X =

Y =

State =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Dear :

This responds to a letter dated April 29, 2010, and subsequent correspondence, submitted on behalf of X, requesting a ruling under § 1362(f) of the Internal Revenue Code for an inadvertently ineffective qualified subchapter S subsidiary (QSub) election.

The information submitted states that X was incorporated in State on Date 1. X made an election to be treated as an S corporation effective Date 2. On Date 3, Y was incorporated under the laws of State. X had intended to elect to treat Y as a QSub effective Date 3. However, the QSub election was ineffective due to procedural defects. Y dissolved on Date 4.

X represents that the ineffective QSub election was not motivated by tax avoidance or retroactive tax planning. X and its shareholders have agreed to make any adjustments that the Commissioner may require, consistent with the treatment of Y as a QSub.

Section 1362(f) provides that if (1) an election under § 1362(a) by any corporation (A) was not effective for the taxable year for which made (determined without regard to § 1362(b)(2)) by reason of a failure to meet the requirements of § 1361(b) or to obtain shareholder consents or (B) was terminated under § 1362(d)(2) or (3), (2) the Secretary determines that the circumstances resulting in the ineffectiveness or termination were inadvertent, (3) no later than a reasonable period of time after discovery of the circumstances resulting in the ineffectiveness or termination, steps were taken (A) so that the corporation is a small business corporation or (B) to acquire the shareholder consents, and (4) the corporation and each person who was a shareholder of the corporation at any time during the period specified pursuant to § 1362(f), agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period, then, notwithstanding the circumstances resulting in the ineffectiveness or termination, the corporation will be treated as an S corporation during the period specified by the Secretary.

Based solely on the facts submitted and the representations made, we conclude that X's ineffective election for Y to be a QSub on Date 3 was inadvertent within the meaning of § 1362(f). Consequently, we rule that, pursuant to the provisions of § 1362(f), Y will be treated as continuing to be a QSub from Date 3 until Date 4 provided X's S corporation election was valid and provided that the election was not otherwise terminated.

Except as specifically ruled above, we express no opinion concerning the federal tax consequences of the transactions described above under any other provisions of the Code. Specifically, we express no opinion as to whether Y is otherwise eligible to be treated as a QSub.

This ruling is directed only to the taxpayer that requested it. Section 6110(j)(3) provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file, a copy of this letter is being sent to X's authorized representatives.

Sincerely,

Charlotte Chyr
Senior Technician Reviewer, Branch 2
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2):

Copy of this letter

Copy for § 6110 purposes